

Before the
Administrative Hearing Commission
State of Missouri



COURTNEY TOBIN,)	
)	
Petitioner,)	
)	
vs.)	No. 13-0321 RV
)	
DIRECTOR OF REVENUE,)	
)	
Respondent.)	

AMENDED DECISION

We dismiss the complaint filed by Courtney Tobin because we lack jurisdiction to hear it.

Procedure

On March 4, 2013, Tobin filed a complaint appealing a final decision issued by the Director of Revenue (“Director”) denying a refund of sales and use tax. On April 15, 2013, the Director filed a motion for summary decision supported by an affidavit and copies of records of the Director. We will grant the motion if the Director establishes facts that entitle him to a favorable decision and Tobin does not dispute those facts.¹ We gave Tobin until April 30, 2013 to respond to the motion. Tobin did not file a response.

¹Regulation 1 CSR 15-446(6)(A).

Findings of Fact

1. On November 27, 2012, the Director mailed to Tobin a final decision denying a refund of sales tax and use tax paid on a motor vehicle.
2. On March 4, 2013, Tobin filed his complaint with this Commission appealing the Director's final decision.
3. March 4, 2013 is more than 60 days after November 27, 2012.

Conclusions of Law

Section 621.050.1² gives us jurisdiction over an appeal of "any finding, order, decision, assessment or additional assessment made by the director of revenue." However, § 144.261 requires that an appeal of the Director's final decision be filed with this Commission within 60 days after the mailing or delivery of such decision, whichever is earlier. Tobin filed her appeal with this Commission more than 60 days after the Director's mailing of his final decision. Therefore, we have no jurisdiction over Tobin's complaint. If we have no jurisdiction to hear the complaint, we cannot reach the merits of the case and can only exercise our inherent power to dismiss.³

Summary

We grant the Director's motion for summary decision and dismiss Tobin's complaint because we lack jurisdiction to hear it.

SO ORDERED on May 7, 2013.

\s\ Sreenivasa Rao Dandamudi
SREENIVASA RAO DANDAMUDI
Commissioner

²Statutory references, unless otherwise noted, are to RSMo 2000.

³*Oberreiter v. Fullbright Trucking*, 24 S.W.3d 727, 729 (Mo. App., E.D. 2000).